

FREDERICK COUNTY PLANNING COMMISSION

November 13, 2013

TITLE: **Crossroads Farm Preliminary Subdivision Plan**

FILE NUMBER: **S-1131, (AP #13001, APFO #13047 & FRO #13006 & #13017)**

REQUEST: **Preliminary Plan Approval**
The Applicant is requesting Preliminary Subdivision Plan and Adequate Public Facilities approval for 41 single family residential lots, on a 124.95-acre site.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on MD 75-Green Valley Road, between Lewisdale Road and MD 355.

TAX MAP/PARCEL: Tax Map 106, Parcels 15
COMP. PLAN: Rural Community
ZONING: R-1 Residential
PLANNING REGION: Urbana
WATER/SEWER: W-NPS/S-NPS

APPLICANT/REPRESENTATIVES:

APPLICANT: Hyattstown Associates, LLC
OWNER: Hyattstown Associates, LLC
ENGINEER: J.F. Brown II & Associates, Inc.
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Tolson DeSa, Principal Planner II

RECOMMENDATION:

Conditional Approval

ATTACHMENTS:

Exhibit #1- Preliminary Plan Rendering
Exhibit #2- Crossroads APFO Letter of Understanding

STAFF REPORT

ISSUE

The Applicant is requesting Preliminary Subdivision Plan and Adequate Public Facilities approval for 41 single family residential lots, on a 124.95 -acre site.

BACKGROUND

This property was the subject of a previous subdivision application.

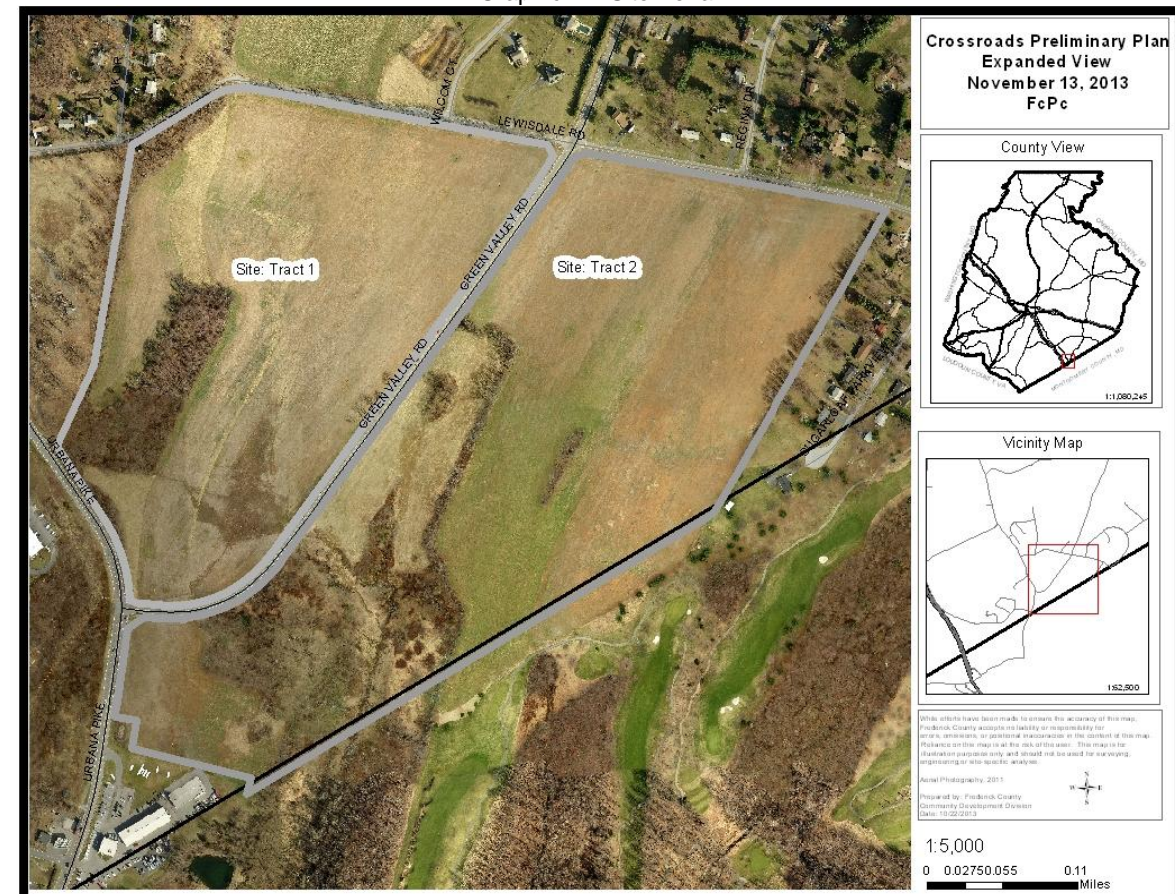
- In September of 2010, the original 129.73 acres was subdivided into a 50.44 acre portion known as Tract 1, and a 74.50 acre portion known as Tract 2. The Plat of lot was created by public taking of MD 75 road dedication of 3.97 acres to the State Highway Administration. A 17.01 acre reserve area for the possible relocation of MD 75 was also shown on the plat along the northern boundary of Tract 1.

The Frederick County Comprehensive Plan shows a re-alignment of MD 75 at the northern end of the subject property. The timing of this State highway re-alignment is undetermined. It is heavily influenced by the need for a new interchange on I-270, which is currently being considered by the I-270/US 15 Multi-Modal Study. Once MD 75 is re-aligned, the old portion of MD 75 will become a local road.

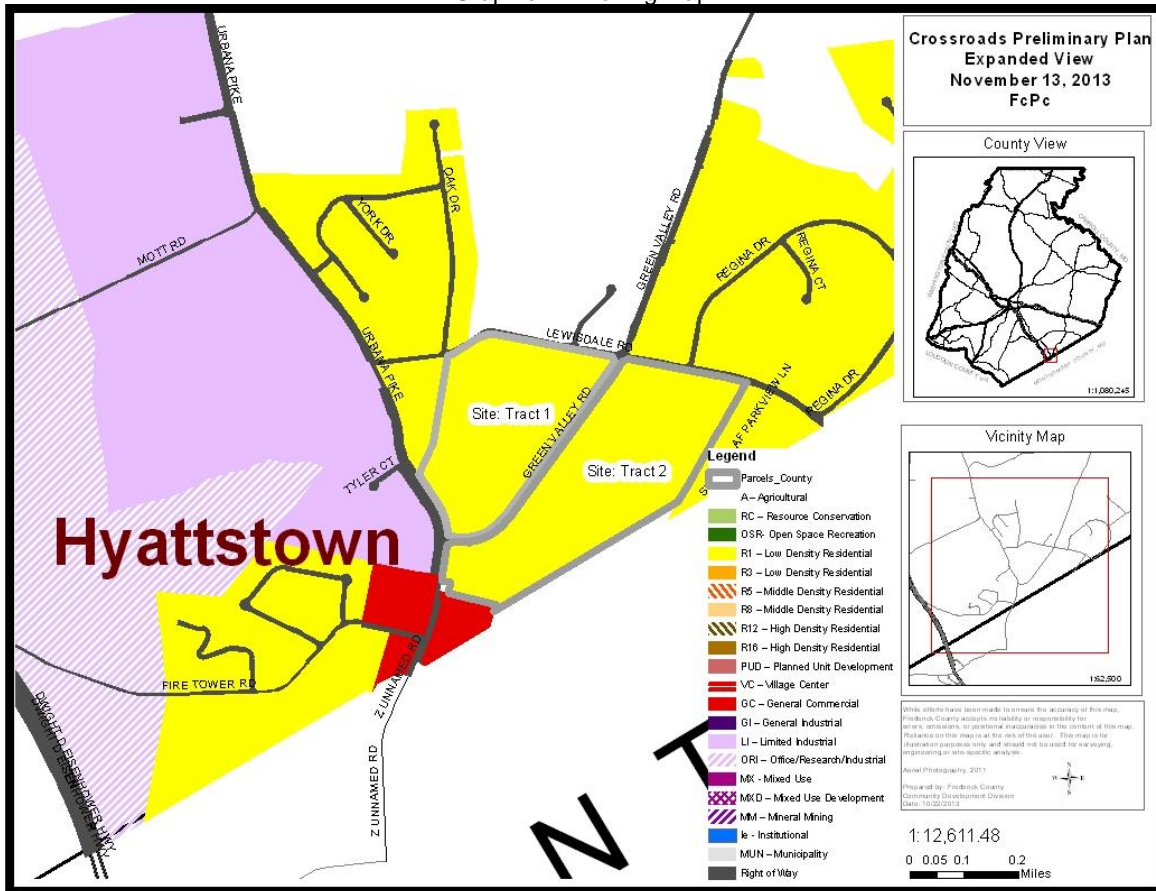
Existing Site Characteristics

The site is zoned R1 residential and consists of open agricultural ground, with forested corridors along the eastern and western boundaries of MD 75. Stream valleys cross the southern portion of the site. The site adjoins the Sugarloaf Vista residential subdivision to the east, located off of Sugar Loaf Park View Lane. See Graphic #1 and Graphic #2 below.

Graphic #1: Site Aerial



Graphic #2: Zoning Map



ANALYSIS

A. SUBDIVISION REGULATION REQUIREMENTS

Review and approval of the proposed Preliminary Plan is subject to subdivision regulations as provided in Chapter 1-16 of the Frederick County Code.

- 1. Land Requirements §1-16-217 (A):** *The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.*

The proposed land use and subdivision design complies with the Comprehensive Plan and meets Zoning Ordinance requirements for the R-1 Zoning District. .

- 2. Land Requirements §1-16-217 (B):** *The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The site design takes advantage of the site topography, wooded areas, stream valley and wetlands. The stream valley and wetlands will be maintained in existing forest. The existing forest will provide additional buffers along these sensitive areas.

The street network and lot layout is designed to avoid stream crossings and provide increased connectivity throughout the proposed subdivision with the connection between Lewisdale Road and MD 75.

- 3. Preliminary Plan, Required Information §1-16-72 (B)(19)(a & b):** Soil types: (a) Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the "wet soils" are located within open space areas. (b) If residential lots are proposed within "wet soils" then a geotechnical report is required to be submitted by a professional engineer registered in the State of Maryland. A note shall be placed on the plan that all construction shall be in conformance with the geotechnical report.

There are wetlands, streams, wet soils, and NRCS flooding soils on the property.

The majority of the wet soils are located within the stream valleys that run through the eastern portion of the site, known as Tract 2. Most of these wet soils areas fall within the existing or proposed Forest Resource Ordinance (FRO) easements. There is another finger of wet soils that run through proposed Lots 7-11, while lots 19 and 20 border the wet soils.

There are two smaller fingers of wet soils that are west of MD 75 on Tract 1, although with the exception of the wet soils located on Lot 101 and 104 all of the remaining wet soils are preserved with FRO easements.

It does not appear that any of the proposed lots are affected by this band of wet soils. If the housing sites are impacted by the existing wet soils then a geotechnical report will have to be submitted at the building permit stage to ensure that proper construction methods are proposed in order to reduce any negative impacts of the wet soils on the proposed homes.

- 4. Road Access Requirements. Public Facilities §1-16-12 (B)(3)(b):** For major subdivisions; Lots must access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.

With the exception of Lots 16-18, Lots 1-30 will access the proposed Regina Drive, which connects Lewisdale Road with MD 75. Due to the denied access on MD 75 Lots 16-18 will share a 16' paved common drive within a 30' easement and access Lewisdale Road, to the west of Regina Drive. Lots 101-115 will access the proposed Regina Terrace cul-de-sac.

All of the proposed internal subdivision streets will meet the minimum 20 foot wide paved road surface requirement. Lot access will meet Subdivision Regulations road access requirements.

- 5. Lot Size and Shape. §1-16-219:** The size, width, depth, shape, orientation and yards of lots shall not be less than specified in the zoning ordinance for the district within which the lots are located and shall be appropriate for the type of development, the use contemplated and future utilities.

The proposed development is located on property zoned R-1 residential. As provided in Section 1-19-6.100 of the Zoning Ordinance, the minimum design requirements in the R-1 residential zoning district are: 40,000 square foot minimum lot size, 100 foot minimum lot width, 40 foot front setback, 30 foot rear yard setback, and 10 foot side yard setback, 30 foot maximum structure height for single family residential development. See Graphic #2.

All of the proposed lots meet the minimum 40,000 square foot (0.92 acres) lot size requirement. Lots range in size from 1.1 acres up to 7.9 acres, with an average lot size of 2.96 acres. The required front, rear, and side setbacks are shown on the plan and meet the requirements of the Zoning Ordinance.

6. Other Street Requirements. Development on Dead End Streets §1-16-236 (K):

(K) Subdivisions on cul-de-sac or dead end streets shall be permitted only if approved by the Planning Commission (or county staff) in accordance with this division, the Design Manual, and the following provisions, as applicable:

(1) For proposed development on new or existing cul-de-sac or dead end street(s), except existing dead end streets described in subsection (2) below, the following requirements apply:

(a) Applicant must demonstrate the existence of site specific circumstances that make the design and development of a through street practically infeasible.

(b) In the AG and R-1 zoning district, cul-de-sac or dead end street(s) shall not exceed 1,800 feet in length and shall not serve more than 30 lots, dwelling units, or parcels. The Planning Commission may approve development of a greater number of lots and/or on a longer cul-de-sac or dead end street if the Planning Commission considers the individual property characteristics and the goals and principles of § 1-16-234 as set forth below in § 1-16-236(K)(1)(c).

§ 1-16-236(K)(1)(c). the length of cul-de-sac or dead end street(s) may vary based on the density in the development section or land bay, property shape and size, topography, environmental constraints, lot size, unit types, and proposed land use. The density and length of cul-de-sac or dead end street(s) shall be reviewed by the Planning Commission and approved on a case by case basis.

§ 1-16-234: In designing highways, streets, roads, or common driveways, the subdivider shall be guided by the following principles.

(A) Design to consider the context of the proposed land use, including the existing and proposed land development patterns on adjacent parcels.

(B) Design for opportunities to create interconnections between adjoining parcels.

(C) Provide for adequate vehicular and pedestrian access to all parcels.

(D) Design local residential street systems to minimize through traffic movement and to discourage excessive speed.

(E) Provide reasonable direct access from local street systems to the primary transportation system.

(F) Local transportation systems and land development patterns shall not conflict with the efficiency of bordering arterial routes.

(G) Provide for safety, efficiency, and convenience of all users of the transportation system.

(H) Pedestrian-vehicular conflict points shall be minimized.

(I) Design to preserve, enhance, or incorporate natural, community, and historic resources.

(J) Be suitably located and designed/improved to accommodate prospective traffic, emergency service vehicles, and road maintenance equipment.

(K) Sidewalk, street design, right-of-way and paving shall be in accordance with these regulations and the County Design Manual.

Due to environmental constraints including wet soils, flooding soils, existing site grades and existing forest Regina Terrace is proposed as a 600 +/- foot long cul-de-sac intended to serve lots 101-115. Staff worked with the Applicant on the eliminating a cul-de-sac in favor of the through movement design of Regina Drive on Tract 2. Tract 1 is more limited with options for a through movement road and therefore the cul-de-sac is proposed.

7. Water and Sewer Facilities. Public Facilities §1-16-12 (C): The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.

The property has a water and sewer classification of No Planned Service (NPS) and must utilize private septic areas and wells. Per §1-16-12 (C)(2), all wells and septic areas must be approved by the Health Department prior to final plat approval and lot recordation.

Subdivision Regulation Requirements Findings/Conclusions

If the Planning Commission approves the proposed cul-de-sac in conformance with 1-16-236 (K) then the project will meet all Subdivision Regulation requirements once all agency comments and conditions have been satisfied.

OTHER APPLICABLE REGULATIONS

Stormwater Management – Chapter 1-15.2: Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. A SWM Concept plan has been submitted and is currently under review by Staff. The SWM Concept Plan must be approved prior to final Preliminary Plan approval.

APFO – Chapter 1-20: This subdivision is subject to meeting APFO requirements for schools and roads.

The following areas are addressed in the APFO Letter of Understanding (LOU) to be signed by the Applicant and the Planning Commission as a condition of approval of this preliminary plan. See attached Exhibit #2.

1. **Schools:** *The Project is projected to generate up to 10 elementary school students, 7 middle school students and 10 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the high school level. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. **The School Construction Fees shall be paid at plat recordation** based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.*
2. **Roads:** *The Project will generate up to 38 am and 47 pm new weekday peak hour trips, which does not exceed the requisite 50 peak hour trip threshold required for APFO testing. However, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H).*
 - a) MD 80/MD 75 Westbound right turn lane – the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3382 for improvement of this intersection. As determined by DPDR-Traffic Engineering Staff, the Applicant's pro-rata contribution to this road improvement is 1.27% of \$291,100 or \$3,691.
 - b) MD 355/MD 75 - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3847 for installation of a new traffic signal. As determined by DPDR-Traffic Engineering Staff, the Applicant's pro-rata share of this road improvement is 4.96% of \$175,000 or \$8,671.
 - c) MD 355/Fire Tower Road Intersection - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3288 to provide a roundabout at this intersection. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.86% of \$401,969 or \$3,470.

- d) MD 75 Relocated: South of CSX to Baldwin Road - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3891 for the realignment of MD 75. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 7 trips times \$17,171 per trip or \$120,197.
- e) MD 75 Relocated: South of MD 80 - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account #3965 for the realignment of MD 75 just south of MD 80. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.85% of \$2,996,000 or \$25,607.

Therefore, prior to plat recordation, the Developer hereby agrees to pay \$161,636 to the escrow accounts for these Road Improvements. Should this payment not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

- 3. **Public Water & Sewer:** The Property has a water and sewer classification of No Planned Service (NPS) in the County's *Master Water and Sewer Plan* and is therefore exempt from APFO testing for water and sewer.

Period of Validity: The APFO approval is valid for three (3) years from the date of Planning Commission approval; therefore, the APFO approval expires on November 13, 2016.

Forest Resource Ordinance – Chapter 1-21: This site is subject to FRO review and mitigation. Two FRO plans have been submitted and are under review. Tract 1 (east side of MD 75, AP 13017) contains 10.64 acres of forest. The Applicant proposes to mitigate the FRO requirements by retaining 7.76 acres of existing forest, planting 5.67 acres of new forest, and providing 4.35 acres of forest banking credit. Tract 2 (AP 13006) contains 4.80 acres of forest. The Applicant proposes to mitigate the FRO requirements by retaining 1.86 acres of existing forest, planting approximately 5 acres of new forest, and providing approximately 2.8 acres of forest banking credit. FRO mitigation must be provided prior to lot recordation, grading permit, or building permits, whichever is applied for first.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering (DRE):	Conditional Approval
Development Review Planning:	Hold. Address all agency comments as the plan proceeds through to completion.
State Highway Administration (SHA):	Conditional Approval
Div. of Utilities and Solid Waste Mngt. (DUSWM):	N/A
Health Dept.	Conditional Approval
Office of Life Safety	Approved
DPDR Traffic Engineering	Conditional Approval
Historic Preservation	Approved

RECOMMENDATION

If the Planning Commission approves the proposed cul-de-sac in conformance with 1-16-236 (K) then Staff has no objection to conditional approval of the Preliminary Plan.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements. Should the FcPc grant approval of this application (S-1131, AP 13001), including approval of the APFO (AP 13047), Staff recommends that the following items be added as conditions to the approval:

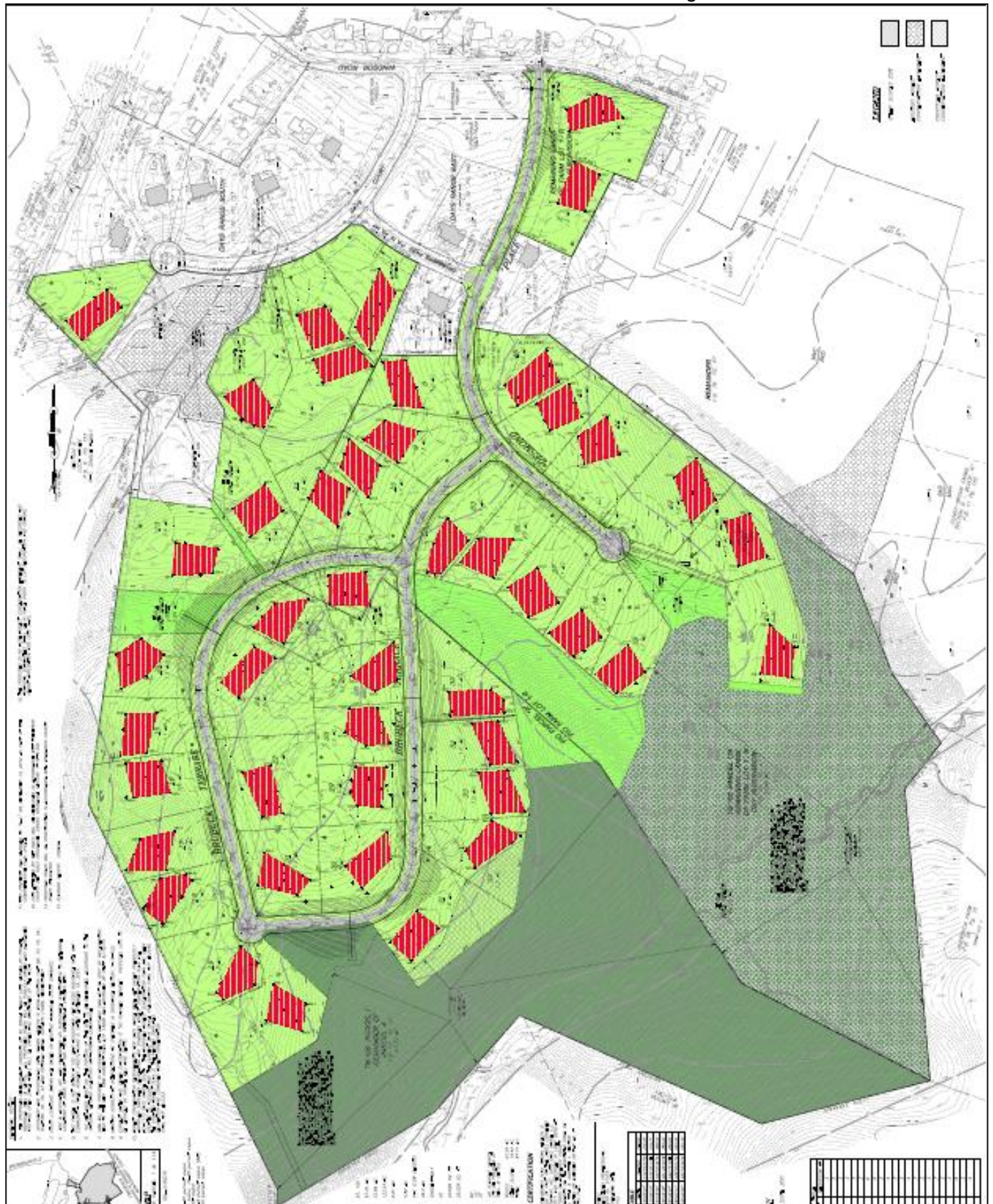
1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. All common driveways must be constructed prior to lot recordation.
3. The purchasers of the common driveway lots are to be notified of the responsibilities of maintaining the common driveways.
4. The Preliminary/Final FRO plan must be approved prior to final Preliminary Subdivision plan approval. FRO mitigation must be provided prior to applying for grading permits or building permits, whichever is applied for first.
5. The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on November 13, 2016.
6. The Preliminary Plan approval is valid for the lesser of five (5) years from the date of FcPc approval, or the period of APFO approval (per §1-16-71(Q)). Therefore, the Preliminary Plan approval expires on November 13, 2016.
7. All common driveways must be constructed prior to lot recordation.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE S-1131 (AP 13001) with the conditions and modification** as listed in the staff report for the proposed Crossroads Farm preliminary plan, approval of the **APFO (AP 13047)**, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

Exhibit #1: Crossroads 41-Lot Subdivision Rendering





**FREDERICK COUNTY GOVERNMENT
DIVISION OF COMMUNITY DEVELOPMENT**

Eric E. Soter, Division Director

*Planning & Development Review Department
Jim Gugel, Planning Director*

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County Manager

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Crossroads Farm

Preliminary Plat #S-1131 AP #13047

In General: The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Hyattstown Associates, LLC ("Developer"), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the Crossroads Farm Preliminary Plan of Subdivision (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("APFO").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (or contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 124.96 +/- acre parcel of land, which is zoned Low Density Residential (R-1) and located adjacent to MD 75, south of Lewisdale Road and north of the Montgomery County Line, with access off of MD 75 and Lewisdale Road. This APFO approval will be effective for development of up to 41 new single family detached homes, which is shown on the preliminary plat for the above-referenced Project, which was conditionally approved by the Commission on November 13, 2013.

Schools: The Project is projected to generate up to 10 elementary school students, 7 middle school students and 10 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the high school level. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. **The School Construction Fees shall be paid at plat recordation based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.**

Water and Sewer: The Property has a water and sewer classification of No Planned Service (NPS) in the County's *Master Water and Sewer Plan* and is therefore exempt from APFO testing for water and sewer.

Road Improvements: The Project will generate up to 38 am and 47 pm new weekday peak hour trips, which does not exceed the requisite 50 peak hour trip threshold required for APFO testing. However, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H).

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Therefore, prior to plat recordation, the Developer hereby agrees to pay \$161,636 to the escrow accounts for these Road Improvements. Should this payment not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on November 13, 2016.

Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

DEVELOPER: Hyattstown Associates, LLC

By: 

Date: 10.24-13

Pat Smith

FREDERICK COUNTY PLANNING COMMISSION:

By: _____ Date: _____
Robert Lawrence, Chair or Dwaine Robbins, Secretary

ATTEST:

By: _____ Date: _____
Gary Hessong, Director, Permits & Inspections

Planner's Initials Date

County Attorney's Office Initials Date
(Approved as to legal form)